

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6176**  
**BILL NUMBER: SB 271**

**NOTE PREPARED: Jan 6, 2008**  
**BILL AMENDED:**

**SUBJECT:** Commercial Driver's License Violations.

**FIRST AUTHOR:** Sen. Wyss  
**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill:

- (1) Establishes the Commercial Motor Vehicle Violations Agency and the Commercial Motor Vehicle Violations Board to adjudicate alleged violations of commercial motor vehicle laws that occur after June 30, 2009;
- (2) Provides that the Board has original jurisdiction of all such alleged violations;
- (3) Requires the Board to waive its jurisdiction to the courts if the alleged violation is a felony or if the respondent demands a jury trial;
- (4) Establishes the Commercial Motor Vehicle Violations Fund for the deposit of all monetary penalties collected under the statute;
- (5) Provides that money in the fund is dedicated to funding operation of the agency and board and as otherwise provided by law; and
- (6) Establishes interim transitional provisions.

**Effective Date:** July 1, 2008.

**Explanation of State Expenditures:** The potential expenditures associated with the Commercial Motor Vehicle Violations Board will depend upon the staff size, salaries, and other expenses. Expenditures are estimated at \$632,000, annually, based on the state of Ohio's Civil Forfeiture Program. To some extent, these costs will be offset by a corresponding reduction of cases processed through the existing court system.

**Background Information:** The Commercial Motor Vehicle Violations Agency and board are patterned after the Workers Compensation Board (WCB), which hears and adjudicates claims throughout the state. The

WCB has seven board members, one of whom is the chairperson who is not assigned to a particular district. The newly created agency and board has a similar structure, with the state divided into six districts, just as the WCB.

*Commercial Motor Vehicle Violations and the Commercial Motor Vehicle Violations Board:* Below is a table which shows the number of commercial driver's license (CDL) cases in Indiana for FY 2006. The Judicial Technology and Automation Commission (JTAC) provided a summary of all CDL cases that Indiana's Trial courts disposed of between July 1, 2005, and June 30, 2006, the most recent year for which complete data are available.

The JTAC staff reported 24,662 cases involving CDL license holders over this 12-month period. With the creation of the new agency involving CDL license holders, trial court caseloads would be reduced. The proposal requires the Board to waive its jurisdiction to the courts if the alleged violation is a felony, or the respondent demands a jury trial.

<b>Findings of Traffic Cases Involving CDL Holders Sent to the Bureau of Motor Vehicles Between July 1, 2005, and June 30, 2006.</b>								
<b>Case Type</b>	<b>Deferred</b>	<b>Dismissed</b>	<b>Guilty</b>	<b>Nolle Prosse</b>	<b>Non Pointable</b>	<b>Not Guilty</b>	<b>Probable Cause Court Finding</b>	<b>Grand Total</b>
Felony A			1					1
Felony B		1	3				1	5
Felony C			5				3	8
Felony D	1	13	90		5		169	278
Misdemeanor	7	69	551		26	1	835	1,489
Infractions	3	32	20,863	1	1,072			21,971
Ordinance Violations			851		59			910
<b>Grand Total</b>	<b>11</b>	<b>115</b>	<b>22,364</b>	<b>1</b>	<b>1,162</b>	<b>1</b>	<b>1,008</b>	<b>24,662</b>

Using the FY 2006 data above and removing the felony cases which would be waived to a court under the newly created agency, about 24,370 cases would presumably be heard by the Board.

*The State of Ohio Civil Forfeiture Program-* The state of Ohio has created a Civil Forfeiture program which functions somewhat similar to the Commercial Motor Vehicle Violations Board. In Ohio, when a violation has been found, a Notice of Intent to Assess Civil Forfeiture (NIF) is sent to the carriers, shippers, and drivers. Over the last three fiscal years, on average, 20,415 NIF letters were generated.

The recipients of the NIF letters have 30 days to either pay the forfeiture or request a conference to dispute the matter. Over the last three fiscal years, about 1,770 settlement conferences were held annually, resulting in the collection of approximately \$3.4 M annually in penalties. In other cases, the violations may not warrant a monetary penalty. In these situations in the state of Ohio, a Notice of Apparent Violation (NAV) letter is sent to the carrier letting them know that a violation was discovered and will be part of their safety rating and, if they desired, they may request a conference to dispute the matter.

Some motor carriers do not respond to the notices. The first letter is mailed via U.S. mail. After that, a certified letter is sent. Once several attempts have been made to reach these parties, their cases are considered

to be in “default”. After a case is in default, a “show cause” letter is sent asking the responsible parties to show cause as to why their case should not be sent to the Attorney General’s Office for recovery of the penalties. If no reply is received or the response does not provide an acceptable cause for failing to reply, the case is referred to the Attorney General’s Office for collection.

From January 2006 through March 2007, the Attorney General of Ohio participated in 4,662 non-hazardous material default proceedings for failure to pay \$797,361 in civil forfeitures, along with 478 hazardous material default proceedings for failure to pay civil forfeitures totaling \$499,423.

The following table shows the staff and the salaries associated with the Ohio program.

<b>Classification</b>	<b>Projected FY 2008 Cost</b>
Cust Srv Ast 2	\$60,775
Investigator	76,167
PUCO Adm 3	117,579
Cust Srv Ast 2	67,917
Investigator	68,494
Haz Mat Inv Spec 1	57,370
Haz Mat Inv Spec 1	75,545
Haz Mat Inv Spec 2	93,276
PUCO Tr Sys Ad 1	108,016
College Intern	5,000
Haz Mat Inv Spec 2	46,705
<b>Total</b>	<b>\$776,844</b>

Based on the 29,976 NAV and NIF letters in Ohio, the average number over the last three fiscal years, and based on salaries of \$776,844, the per unit cost amounts to \$25.92. Using Indiana’s estimated total non-felony cases of 24,370, the total estimated cost for Indiana would amount to \$631,562.

**Explanation of State Revenues:** Revenue will depend upon the number of cases filed and the amount of each penalty. The fund affected is the Commercial Motor Vehicle Violations Fund, established by the bill, which is to support the Commercial Motor Vehicle Violations Agency from penalties imposed. Expenses of administering the fund are to be paid from the fund.

Currently, revenue from felony convictions and misdemeanor convictions is deposited into the Common School Fund, with revenue from infractions and ordinance violations deposited into the state General Fund.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Bureau of Motor Vehicles; State Department of Revenue (Motor Carrier Services Division).

**Local Agencies Affected:** Trial courts.

**Information Sources:** Alan Martin, Deputy Director, Transportation, Public Utilities Commission of Ohio, 614-466-0785.

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